

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53839 of 2019

Arising Out of PS. Case No.-37 Year-2019 Thana- MAINATAND District- West Champaran

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WASIM AKHTAR Son of Afroj Alam @ Munna @ Md. Afroj Resident of
Village-Purainiya, P.S.-Mainatar, District-West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Ashok Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 27-08-2019 Heard learned counsel for the petitioner and learned APP for
the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 420, 376, 406, 323, 504 of the Indian Penal Code registered in connection with Mainatar P.S. Case No. 37 of 2019.

3. It is submitted that the petitioner has been falsely implicated on the accusation that he established physical relationship with the informant six months earlier on the pretext of marriage, but later on he resiled from his promise. It is submitted that there is inordinate delay in institution of the FIR on 17.04.2019 since the first occurrence. It is therefore, submitted that the relationship was consensual in nature which did not attract the ingredients of Section 376 IPC. The petitioner claims clean antecedents.

4. Learned APP appears and opposes the petition inviting reference to a recent decision of the Hon'ble Supreme Court in *Anurag Soni vs. The State of Chattisgarh*, AIR Weekly 2019 SC 1857, to submit that there was no valid consent of the informant which had been obtained on misconception of fact as mentioned in Section 90 of the Indian Penal Code. Learned APP also invites reference to the order of the learned Additional District & Sessions Judge which



discloses that the informant in her statement under Section 164 Cr. P.C. has supported her case.

5. Be that as it may and considering that the facts in Anurag Soni's case (supra) are distinguishable from the facts of the present case inasmuch as it does not appear from the FIR that there is any material to indicate the petitioner's intention from the very inception not to marry the informant, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned SDJM, Bettiah, West Champaran in connection with Mainatar P.S. Case No. 37 of 2019., subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following further conditions:

- i. That one of the bailors shall be a close relative of the petitioner.
- ii. That the petitioner shall not indulge in any similar offence till conclusion of the trial.
- iii. That the petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.
- iv. The petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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